IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1161 OF 2007

THE STATE OF MAHARASHTRA ... APPLICANT.

VS.

RAMCHANDRA KISAN YAMGAR

AND THREE OTHERS. ... RESPONDENTS.

MR. P.S.HINGORANI, APP FOR THE APPELLANT-STATE.

NONE FOR THE RESPONDENTS.

CORAM : R.M.S.KHANDEPARKAR & A.A.SAYED,JJ.

DATE : November 28, 2007.

P.C.

1. Heard.

2. The learned APP represents the Applicant-State.

None present for the Respondents, though served.

3. A perusal of the impugned judgment disclose that the acquittal is essentially based on the alleged discrepancy between the ocular evidence and medical evidence and that too without analysing the ocular evidence and without ascertaining as to whether the ocular evidence is believable or not.

4. In the circumstances leave to appeal is

allowed.

5. Appeal against the impugned Judgment stands admitted.

6. Action under Section 390 of Cr.P.C.to follow.

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**[R.M.S.Khandeparkar,J.]**

**[A.A.Sayed, J.]**